

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to amend Section 440.04, Occupational Licensing and Disciplinary Guidelines in Chapter 1, Division 1, Article 6.1 of Title 13, California Code of Regulations.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on April 2, 2007, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Government Code sections 11400.20, 11340.5 and 11425.50(e), and Vehicle Code sections 11100 through 11909.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code sections 11100 through 11909 provide for the Occupational Licensing Operations and Inspections Program to license, monitor and control a wide range of motor vehicle related businesses and individuals to ensure that consumers are dealing with reputable individuals and receiving the product that is represented to them. The department oversees close to 130,000 business firms and individuals for licensing compliance of laws, rules and regulations. Oversight is performed by inspectors located throughout the state.

The department may refuse to issue a license to any applicant who has been convicted of a crime or committed any act or engaged in any conduct involving moral turpitude which is substantially related to the qualifications or duties of the licensed activity. When a license is refused or discipline is imposed on an occupational licensee, the action is taken on an administrative level and taken before an administrative law judge if necessary.

For purposes of an administrative adjudication proceeding, and disciplinary action, an occupational license includes a business license issued by the department to: a vehicle dealer, lessor-retailer, dismantler, manufacturer, re-manufacturer, distributor, driving school, traffic violator school, registration service, all-terrain vehicle safety training organization, or transporter; and an individual license issued to: a salesperson, driving school operator or instructor, traffic violator school administrator, operator, or instructor, vehicle verifier, all-terrain vehicle safety instructor, or a vehicle representative.

Government Code section 11400.20 provides that an agency may adopt interim or permanent regulations to govern adjudicative proceedings. The department proposes to amend Section 440.04, the guidelines entitled "Occupational Licensing and Disciplinary Guidelines."

DOCUMENTS INCORPORATED BY REFERENCE

The following document is incorporated by reference in Section 440.04. This document is not published in the California Code of Regulations, because it would be impractical and cumbersome to publish this document in the Code of Regulations:

Occupational Licensing and Disciplinary Guidelines (Rev. 11/2006)

The guidelines are available to the public.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California

businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.

- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the regulations will update the Occupational Licensing Guidelines.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Maria Grijalva, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-9001, or mgrijalva@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the

initial statement of reasons and final statement of reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at *www.dmv.ca.gov*, Other Services, Legal Affairs Division, Regulatory Actions web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.